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07/683,972 04/11/91 ROZMANI TH

A 17357-A

EXAMINER

RICHARDSON, R

ART UNIT PAPER NUMBER

2317

DATE MAILED:

09/09/92

SCOTT J. FIELDS
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This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☒ PATENT SCHEDULE

Part II SUMMARY OF ACTION

- ☒ Claims 1-16 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

- ☐ Claims _____ have been cancelled.

- ☐ Claims _____ are allowed.

- ☒ Claims 1-7 are rejected.

- ☒ Claims 8-16 are objected to.

- ☐ Claims _____ are subject to restriction or election requirement.

- ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

- ☐ Formal drawings are required in response to this Office action.

- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

- ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

- ☐ Other

EXAMINER'S ACTION

Serial No. 683,972

Art Unit 2317

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This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required at such time as allowable subject matter is indicated.

Claims 1-3 and 7 are provisionally rejected under 35USC101 as claiming the same invention as that of claims 1 and 2 of copending application Serial No. 07/665,528. This is a provisional double patenting rejection since the conflicting claims have not, in fact, been patented.

The differences in the claims are viewed as only semantical in nature and not substantive.

Claims 4-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable ^{over} of claims 1 and 2 of copending application Serial No. 07/665,528.

This is a provisional obviousness-type double patenting rejection.

The claims set forth only the functional operational environment of the invention and official notice is taken that choice of environment would have been well known and obvious in the file transfer art.

Relative to the doctrine of official notice, see In re Fox, 176 U.S.P.Q. 340 at 341 (CCPA-1973).

The references are cited as of interest.

Claims 8-¹⁶~~15~~ are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Serial No. 683,972

Art Unit 2317

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Inquiries relative to the merits of this Office action, should be directed to Robert L. Richardson at (703)-308-3597. Other inquiries of a general nature, and status inquiries, should be directed to the Group 2300 receptionist at (703)-308-0754.



ROBERT L. RICHARDSON

PRIMARY EXAMINER

ART UNIT 2317

(ATTACHMENT)

Paper No. 5

PATENT STATUTES

S.N. 683972

Section: TITLE 35 U.S. CODE

101. Inventions patentable

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless—
(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
(c) he has abandoned the invention, or
(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
(f) he did not himself invent the subject matter sought to be patented, or
(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

103. Conditions for patentability; non-obvious subject matter

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

112. Specification

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A claim may be written in independent or, if the nature of the case admits, in dependent or multiple dependent form.

Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.